

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PEDRO POLO,

Plaintiff,

v.

WHATCOM COUNTY JAIL,

Defendant.

CASE NO. C12-1451 MJP

ORDER ADOPTING REPORT AND
RECOMMENDATION

The Court, having received and reviewed:

1. Report and Recommendation (Dkt. No. 20)

2. Plaintiff's Objections (Dkt. No. 21)

and all attached declarations and exhibits, makes the following ruling:

IT IS ORDERED the Report and Recommendation is ADOPTED; Plaintiff's complaint is dismissed with prejudice in accordance with 28 U.S.C. §1915(e)(2)(B)(ii) for failure to state a claim on which relief may be granted.

IT IS FURTHER ORDERED that this dismissal will count as a "strike" in accordance with 28 U.S.C. §1915(g).

1 **Discussion**

2 On two occasions, Plaintiff has had the deficiencies in his complaint explained in written
3 detail, with suggestions as to how to correct them. *See* Order Declining to Serve and Granting
4 Leave to Amend (Dkt. No. 18) and Report and Recommendation (Dkt. No. 20). The deficiencies
5 are:

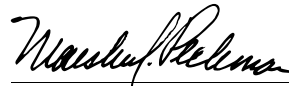
- 6 1. Failure to clearly articulate an allegation of a violation of Plaintiff's rights under
7 the Constitution or a federal statute, as required for a viable § 1983 claim;
- 8 2. Having sued a county entity (Whatcom County Jail), a failure to identify a county
9 policy which caused his injury (Board of the County Commissioners v. Brown,
10 520 U.S. 516, 532 (2002), or any named county employees who personally
11 injured him (Arnold v. IBM, 637 F.2d 1350, 1355 (9th Cir. 1981)) ; and
- 12 3. Failure to allege (as required by the Prison Litigation Reform Act of 1995) that
13 Plaintiff has exhausted all his administrative remedies prior to bringing this
14 lawsuit. 42 U.S.C. §1997e(a); Porter v. Nussle, 534 U.S. 516, 532 (2002).

15 The Court has reviewed the letter written by Plaintiff and received on May 20, 2013.
16 Dkt. No. 21. Although not timely filed, the Court will treat the document as Plaintiff's
17 objections to the Report and Recommendation. Not unlike his original pleading, the letter is
18 extremely difficult to understand. This much, however, is clear: Plaintiff has reviewed the
19 Report and Recommendation (he quotes it extensively at page 2 of his letter) and has completely
20 failed to address any of the deficiencies noted in the Report. As such, the Court is left with little
21 choice but to adopt the recommendations of the Magistrate Judge.

1 Plaintiff's complaint is dismissed with prejudice in accordance with 28 U.S.C.
2 §1915(e)(2)(B)(ii) for failure to state a claim on which relief may be granted; in accordance with
3 28 U.S.C. §1915(g), this dismissal will count as a "strike."

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6 The clerk is ordered to provide copies of this order to all counsel.

7 Dated: May 22, 2013.

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10 Marsha J. Pechman
United States District Judge